IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS WICHITA FALLS DIVISION

BRIAN BERNARD WILLIN,	§	
TDCJ No. 1795654,	§	
	§	
Petitioner,	§	
	§	
v.	§	Civil Action No. 7:18-cv-012-O-BP
	§	
LORIE DAVIS, Director,	§	
Texas Department of Criminal Justice,	§	
Correctional Institutions Division,	§	
	§	
Respondent.	§	

ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

This is a habeas action brought pursuant to 28 U.S.C. § 2254 in which Petitioner challenges the validity of a prison disciplinary action. The United States Magistrate Judge entered his Findings, Conclusions, and Recommendation in which he recommends that the petition be dismissed without prejudice as moot because the disciplinary action at issue has been overturned by the Texas Department of Criminal Justice. *See* ECF No. 37. Petitioner did not file objections to the recommendation. But and objection was filed by Respondent. ECF No. 28. Respondent argues that the Petition should be dismiss "with prejudice" rather than "without prejudice." *Id*.

The District Court reviewed de novo those portions of the Findings, Conclusions, and Recommendation to which objection was made, and reviewed the remaining Findings, Conclusions, and Recommendation for plain error. Finding no error, I am of the opinion that the findings of fact, conclusions of law, and reasons for denial set forth in the Magistrate Judge's Recommendation are correct and they are hereby adopted and incorporated by reference as the Findings of the Court with the following modification:

Respondent's objection is sustained and the Petition will be dismissed "with prejudice." *See Ahmadi v. Davis*, No. H-17-3636, 2018 WL 6329663 at *1 (S.D. Tex. Dec. 3, 2018) (dismissing moot habeas claims "with prejudice"); *Chadman v. Fowler*, No. 4:17-cv-703-O, 2018 WL 4051868 at *4 (N.D. Tex. Aug. 24, 2018) (same).

Accordingly, the petition for writ of habeas corpus is **DISMISSED** with prejudice as **MOOT**.

SO ORDERED this 13th day of February, 2019.

Reed O'Connor

UNITED STATES DISTRICT JUDGE